

Message Text

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ACTION ARA-10

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O R 032251Z JUN 75

FM AMEMBASSY QUITO

TO SECSTATE WASHDC IMMEDIATE 5799

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L QUITO 3874

E.O. 11652: GDS

TAGS: EINV, EC

SUBJECT: ADA CASE

REF: STATE 127930

1. EMBOFF CONTACTED LOCAL ADA ATTORNEY CARLOS JIMENEZ AND RECEIVED COPY OF MAY 27 LETTER FROM MINNATRES TO K.S. ADAMS, JR., OF ADA PETROLEUM EXPLORATION COMPANY. INFORMAL TRANSLATION OF TEXT IS CONTAINED SEPTEL. LETTER DOES INDEED SEEM TO THROW THE CASE BACK TO WHERE IT STOOD IN EARLY AUGUST BY NULLIFYING THE ACTIONS AND THE PROGRESS MADE SINCE THAT DATE. FOR THE FIRST TIME TO THE EMBASSY'S KNOWLEDGE THIS COMMUNICATION STRESSES THE PUNITIVE NATURE OF DECREE 1391 OF NOVEMBER 28, 1972. THE ONLY OUT THAT THE GOVERNMENT APPEARS TO HAVE LEFT ITSELF IN THIS COMMUNICATION LIES IN ITS AFFIRMATION OF THE CABINET LEVEL COMMISSION'S QUOTE CAPACITY AND COMPETENCE FOR DECIDING ON ANY PROBLEM RELATING TO THE ALLEGED RIGHTS OF THE ADA CONSORTIUM UNQUOTE.

2. JIMENEZ SAID THAT HE HAS RECOMMENDED TO ADA HOUSTON FOR CONSIDERATION AT THE JUNE 3 MEETING OF THE CONSORTIUM: A. PROMPT REPLY TO SALAZAR'S LETTER, DENYING THE GUILT OF THE CONSORTIUM AND REQUESTING A PROMPT MEETING OF THE CABINET LEVEL COMMISSION WITH ADA PRINCIPALS; B. A REQUEST TO THE USG THAT IT
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FORMALLY SPONSOR ADA'S CLAIM FOR COMPENSATION AND C.

INVESTIGATION OF LEGAL RECOURSES AGAINST
NORTHWEST PIPELINE COMPANY IN THE U.S. LEGAL SYSTEM.

3. AT THE LEAST, THE LETTER SHOWS SOME LACK OF CONTROL OVER THE CASE BY THE PRESENT MINISTER OF NATURAL RESOURCES SINCE HE EVIDENTLY TOOK ADA'S EARLIER LETTER TO THE CABINET AND ENDED UP REVOKING ACTIONS THAT HAD BEEN TAKEN DURING HIS TENURE AS WELL AS THOSE OF HIS PRE-DECESSOR.

4. SINCE THE NULLIFICATION OF THE ADA CONTRACT IN 1972 AND MORE ACTIVELY, SINCE THE DESIGNATION OF THE CABINET LEVEL COMMISSION IN AUGUST 1974, THE USG HAS PERFORMED A ROLE OF FACILITATION AND LENDING GOOD OFFICES IN WHAT HAS BEEN A BUSINESS DISPUTE BETWEEN THE GOE AND A U.S. FIRM. THIS HAS SEEMED CORRECT UP TO NOW AND HAS NOT REQUIRED A CLOSE LOOK ON THE USG'S PART INTO THE ORIGINS OF THE CANCELLATION AND THUS THE MERIT OF THE DISPUTE. IT NOW APPEARS HOWEVER THAT THE DEPARTMENT MAY BE PRESENTED WITH A REQUEST TO TAKE ON LARGER RESPONSIBILITY FOR PURSUING ADA'S CLAIM VIS-A-VIS THE GOE. IT THEREFORE SEEMS TO US TIMELY AND IMPORTANT THAT THE USG TRY TO DETERMINE FOR ITSELF THE BASIS FOR THE OFFICIALLY AND PUBLICLY HELD BELIEF IN ECUADOR THAT THE AWARD OF THE ADA CONCESSION WAS BASED ON FRAUD, BRIBERY AND CRIMINAL ACTIONS; AND THEN, TO DETERMINE WHAT, IF ANY, EFFECT SUCH IMPLICATIONS WOULD HAVE FOR THE USG'S HANDLING OF THE CLAIM IN THE FUTURE. IF THE DEPARTMENT CONCURS, WE WOULD FURTHER SUGGEST THAT SUCH AN INVESTIGATION SHOULD BE CONDUCTED OR SUPERVISED BY DEPARTMENT LAWYERS. THERE ARE SOME PERSONS IN ECUADOR WHO MIGHT USEFULLY BE INTERVIEWED WHETHER OR NOT THE DEPARTMENT WOULD CARE TO APPROACH THE GOE OR THE ADA COMPANIES IN AN INVESTIGATION. AMONG THESE ARE THE ORIGINAL MANAGER OF ADA'S OPERATION, WHO IS NO LONGER WITH THE FIRM, AS WELL AS THE PRESENT ASSISTANT MANAGER OF TEXACO, WHO SERVED IN THE DIRECTORATE OF HYDROCARBONS AT THE TIME OF THE ADA CONCESSION AWARD.

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5. NOTWITHSTANDING THE ABOVE, PRESS QUOTES MINISTER SALAZAR AS SAYING ON JUNE 2 THAT THE GOVERNMENT WILL RECOGNIZE EXCLUSIVELY INVESTMENTS THAT HAVE BEEN CARRIED OUT BY ADA AND WHOSE ELEMENTS AND WORKS LEND THEMSELVES TO USE IN EXPLORATION AND EXPLOITATION OF HYDROCARBONS RESOURCES IN THE AREA. IN REPLY TO A QUESTION, HE SAID THAT THE SUM OF \$26 MILLION ASKED BY THE ADA CONSORTION CANNOT BE RECOGNIZED WITHOUT THE

INTER-INSTITUTIONAL COMMISSION FIRST HAVING A REPORT ON THE INVESTMENTS CARRIED OUT BY THE FIRM. HE ADDED THAT THE GOVERNMENT WILL PAY THE VALUE THAT IS DETERMINED IN ACCORDANCE WITH THE ANALYSIS OF THE COMMISSION IN RECOGNITION OF INVESTMENT IN GAS EXPLORATION WORKS CARRIED OUT IN THE ASSIGNED BLOCK IN THE GULF OF GUAYAQUIL. THESE STATEMENTS BY THE MINISTER CONFORM TO WHAT WE HAVE UNDERSTOOD TO BE GOE POLICY AND SUGGEST THAT EVEN WHILE HIGHHANDEDLY REJECTING ADA'S CLAIM FOR ENTITLEMENT TO INDEMNITY FOR LOSS OF RIGHTS, THE GOE STILL PLANS TO COMPENSATE IT FOR USEFUL INVESTMENTS MADE. A MEETING OF ADA PRINCIPALS WITH THE CABINET LEVEL COMMISSION MIGHT PROVE CLARIFYING. WE WILL SEEK TO DEVELOP FURTHER INFORMATION ON THE GOE POSITION THROUGH EMBASSY SOURCES.
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